

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
Implementation of Section 17 of the)
Cable Television Consumer Protection)
and Competition Act of 1992)
)
Compatibility Between Cable Systems)
and Consumer Electronics Equipment)

ET Docket No. 93-7

REPLY COMMENTS OF DIRECTV, INC.

DIRECTV, Inc. ("DIRECTV") hereby submits its reply comments in the above-captioned matter.

I. INTRODUCTION

In the wake of the recent successful launch of Hughes Communications Galaxy's DBS-1 satellite on December 17, 1993, DIRECTV is preparing to offer the nation's first high-powered direct broadcast satellite ("DBS") service to American consumers.^{1/} DIRECTV will enter the video market as a multichannel video programming distributor ("MVPD") using an alternative to cable technology and other locally-based video programming delivery systems.^{2/} DIRECTV's DBS service is expected to provide vibrant competition to the vertically integrated cable companies in the provision of video programming.

^{1/} DirecTv is a wholly-owned subsidiary of Hughes Communications, Inc. ("HCI") and sister subsidiary of Hughes Communications Galaxy, Inc. ("HCG"). HCG is a Commission licensee in DBS service, and DirecTv is the DBS operating, customer service and programming acquisition arm of the HCI family.

^{2/} MVPDs are entities "engaged in the business of making available for purchase, by subscribers or customers, multiple channels of video programming." In the Matter of Implementation of Sections 12 and 19 of the Cable Television Consumer Protection and Competition Act of 1992, Development of Competition and Diversity in Video Programming Distribution and Carriage, First Report and Order, MM Docket No. 92-265 (released April 30, 1993), at 3, ¶ 6 n.3.

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Section 17 of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act") amends the Communications Act to add a new Section 624A addressing the compatibility of consumer electronics equipment with cable television systems. The Commission has sought comment regarding its proposed regulations, mandated by Section 624A, to ensure the compatibility between consumer electronics equipment and "cable systems."^{3/} As a DBS provider, DIRECTV will not and should not be subject to the Commission's final rules in this proceeding, which apply only to "cable systems" and "cable operators" and not to alternative MVPDs. Nevertheless, DIRECTV shares the concerns of other alternative MPVDs that the Commission's final compatibility rules in this proceeding could inadvertently limit the development of competing video services to cable that use digital or other evolving technologies.^{4/} DIRECTV therefore urges the Commission to acknowledge this concern on a going-forward basis and to encourage the participation of a broad range of MVPD voices in any subsequent proceedings, standard-setting or advisory processes that could affect the development of alternative video distribution systems and innovations.

II. THE RULES AT ISSUE IN THIS PROCEEDING ARE NOT APPLICABLE AND SHOULD NOT BE APPLIED TO ALTERNATIVE MVPDs

It is clear that the compatibility regulations mandated by Section 17 of the 1992 Cable Act are intended to apply only to operators of "cable systems" and not to

^{3/} Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992, Compatibility Between Cable Systems and Consumer Electronics Equipment, Notice of Proposed Rule Making, ET Docket No. 93-7 (released Dec. 1, 1993), at 1, ¶ 1 ("Notice").

^{4/} See, e.g., Comments of Bell Atlantic, (Jan. 25, 1994); Comments of BellSouth (Jan. 25, 1994); see also Comments of American Telephone and Telegraph Co. (Jan. 25, 1994).

alternative MVPDs.^{5/} To the extent that the point requires explicit clarification, DIRECTV joins in BellSouth's request that the Commission do so.^{6/} Contrary to the suggestion of Continental Cablevision,^{7/} there is no statutory or policy basis for applying an unnecessary layer of technology regulation to DBS or other nascent alternative video distribution technologies.

Section 17 of the Cable Act is facially applicable only to "cable systems" and their operators.^{8/} Because the FCC has confirmed expressly that DBS and certain other alternative MVPD systems are not "cable systems" within the meaning of the Cable Act,^{9/} there is no statutory basis for applying the final regulations promulgated in this proceeding to

^{5/} See Notice at 6, ¶ 11 ("Consistent with Section 17, our primary goal in this matter is to improve the compatibility of cable systems and consumer electronics equipment so as to allow cable subscribers to use special features and functions of their TV sets and VCRs when receiving cable service.") (emphasis supplied).

^{6/} See Comments of BellSouth (Jan. 25, 1994).

^{7/} See Comments of Continental Cablevision, Inc. (Jan. 25, 1994), at 17. Continental's argument that the Commission's regulations "unfairly focus responsibilities solely on cable operators" make no sense. The **entire purpose and focus** of the 1992 Cable Act is "solely" to remedy competitive and other problems that have arisen from cable's dominance of the video distribution industry. A subset of these cable-related problems has been the increasing number of compatibility problems "between cable television service and the consumer electronics equipment, particularly TV receivers and videocassette recorders (VCRs), that [customers] use with their cable service." Federal Communications Commission, Consumer Electronics and Cable System Compatibility, Report to Congress (October 1993) ("1993 Cable Report") (emphasis supplied). Contrary to Continental's suggestion, targeted congressional and FCC efforts to correct problems spawned by cable monopolists is in no way "unfair."

^{8/} See Section 624A. In addition, an examination of the legislative history confirms that assuring compatibility between consumer electronics equipment and "cable systems" was the sole focus of the legislation. See Conference Report at 88-89.

^{9/} See School Board of Roanoke County, 8 FCC Rcd 6273, 6275 (1993) (Commission has "specifically excluded DBS . . . from the Act's definition of a cable system") (citing Definition of a Cable Television System, 5 FCC Rcd 7638 (1990), remanded in part on other grounds sub nom. Beach Communications, Inc. v. FCC, 959 F.2d 1103 (D.C. Cir.), further considered on other grounds, 965 F.2d 1103 (D.C. Cir. 1992), rev'd, 113 S.Ct 2096 (1993)).

DBS providers. More important, applying a new web of compatibility regulations to emerging MVPD competitors to cable at this juncture risks undercutting key policy goals of the 1992 Cable Act.

Specifically, Congress found that expanding the number of competitors to cable will directly benefit the public by providing additional and competing outlets for a diverse selection of video programming.^{10/} Thus, an important goal of the 1992 Cable act is to encourage new service providers to use existing or new video delivery technologies to compete effectively with entrenched cable television systems.^{11/} This goal will be actively and needlessly undercut if the development of innovative alternative MVPD interfaces and digital delivery systems is unnecessarily constrained by a regulatory program that Congress expressly targeted to address the increasing compatibility problems engendered by "cable service."

DIRECTV agrees, for example, that the development of new digital technology should not be limited by rules defined for an analog television environment.^{12/} In DIRECTV's case, the consumer electronics being manufactured initially by Thomson RCA for the DIRECTV DBS system are designed to facilitate the transmission from the service's inception of all-digital signals, and include a forward-looking wideband digital

^{10/} See, e.g., 1992 Cable Act §2(a), Findings(4)(6); H.R. Rep. No. 102-628 (accompanying H.R. 4850), House Comm. on Energy & Commerce, 102d Cong., 2d Sess. (1992) ("House Report"), at 40-41 ("increased concentration and integration [in the cable industry] could undermine competition and reduce diversity in information and entertainment programming").

^{11/} See H.R. Rep. No. 102-862, House Comm. on Energy & Commerce, 102d Cong., 2d Sess. (1992) ("Conference Report") at 93 ("The conferees intend that the Commission shall encourage arrangements which promote the development of new technologies providing facilities-based competition to cable....").

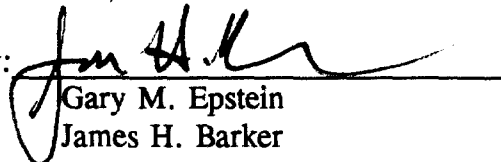
^{12/} See Comments of AT&T at 2; Comments of USTA at 2.

interface capable of delivering digital high-definition television (HDTV). The consumer electronics for many cable operators, however, must continue to support a current installed base of NTSC televisions and the delivery of local broadcast signals. DIRECTV will not, at least in the near future, be carrying local broadcast signals, and it is ill-advised to require DIRECTV consumer electronics to support new analog interface standards such as EIA 563 that might be imposed on cable operators.^{13/}

The Commission should continue to spur the innovation and digital transition taking place in the rapidly evolving video marketplace. In the current proceeding, the Commission should ensure that its cable compatibility rules do not inadvertently stifle the development of interfaces and standards for nascent and future technologies.

Respectfully submitted,
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^{13/} See 1993 Cable Report, Appendix H, EIA/ANSI 563 Standard.